

# Exhibit 5

Belews 404 Permit,  
USACE March 9, 2015

**U.S. ARMY CORPS OF ENGINEERS  
WILMINGTON DISTRICT**

Action Id. SAW-2012-00997 County: Stokes U.S.G.S. Quad: NC-BELEWS LAKE

**GENERAL PERMIT (REGIONAL AND NATIONWIDE) VERIFICATION**

Permittee: Duke Energy - Environmental Services

Steve Cahoon

Address: 410 S Wilmington Street

Raleigh, NC, 27601

Telephone Number:

Size (acres) 6099

Nearest Town Pine Hall

Nearest Waterway Dan River

River Basin Upper Dan, North Carolina, Virginia.

USGS HUC 3010103

Coordinates Latitude: 36.29732

Longitude: -80.07611

Location description: Duke Energy / Belews Creek Steam Station active ash basin dam located off of Middleton Loop, adjacent to an unnamed tributary of the Dan River, south of Pine Hall, in Stokes County, North Carolina.

Description of projects area and activity: repair maintance of existing dam and installation of flow monitoring weirs Repair of existing dam including construction of weir /flow mearsurement devices resulting in approximately 276 linear feet of perennial stream channel impacts, 232 linear feet of intermittent stream channel impacts, and 0.43 acre of wetland impacts to the jurisdictional waters of an unnamed tributary of the Dan River.

**Special Condition: In order to compensate for impacts associated with this permit, mitigation shall be provided in accordance with the provisions outlined on the most recent version of the attached Compensatory Mitigation Responsibility Transfer Form. The requirements of this form, including any special conditions listed on this form, are hereby incorporated as special conditions of this permit authorization.**

Applicable Law: ☒ Section 404 (Clean Water Act, 33 USC 1344)  
☐ Section 10 (Rivers and Harbors Act, 33 USC 403)

Authorization: Regional General Permit Number or Nationwide Permit Number: NWP 3  
**Maintenance. NWP 5 Scientific Measurement Devices.**

***SEE ATTACHED RGP or NWP GENERAL, REGIONAL AND SPECIAL CONDITIONS***

Your work is authorized by the above referenced permit provided it is accomplished in strict accordance with the attached conditions and your submitted application and attached information dated 02/13/2015. Any violation of the attached conditions or deviation from your submitted plans may subject the permittee to a stop work order, a restoration order, a Class I administrative penalty, and/or appropriate legal action.

This verification will remain valid until the expiration date identified below unless the nationwide authorization is modified, suspended or revoked. If, prior to the expiration date identified below, the nationwide permit authorization is reissued and/or modified, this verification will remain valid until the expiration date identified below, provided it complies with all requirements of the modified nationwide permit. If the nationwide permit authorization expires or is suspended, revoked, or is modified, such that the activity would no longer comply with the terms and conditions of the nationwide permit, activities which have commenced (i.e., are under construction) or are under contract to commence in reliance upon the nationwide permit, will remain authorized provided the activity is completed within twelve months of the date of the nationwide permit's expiration, modification or revocation, unless discretionary authority has been exercised on a case-by-case basis to modify, suspend or revoke the authorization.

Activities subject to Section 404 (as indicated above) may also require an individual Section 401 Water Quality Certification. You should contact the NC Division of Water Quality (telephone 919-807-6300) to determine Section 401 requirements.

For activities occurring within the twenty coastal counties subject to regulation under the Coastal Area Management Act (CAMA), prior to beginning work you must contact the N.C. Division of Coastal Management in Morehead City, NC, at (252) 808-2808.

This Department of the Army verification does not relieve the permittee of the responsibility to obtain any other required Federal, State or local approvals/permits.

If there are any questions regarding this verification, any of the conditions of the Permit, or the Corps of Engineers regulatory program, please contact John Thomas at 919-554-4884 x25 or John.T.Thomas.JR@usace.army.mil.

Corps Regulatory Official: \_\_\_\_\_ Date: 03/09/2015  
Expiration Date of Verification: 03/18/2017

### **Determination of Jurisdiction:**

- A. ☐ Based on preliminary information, there appear to be waters of the US including wetlands within the above described project area. This preliminary determination is not an appealable action under the Regulatory Program Administrative Appeal Process (Reference 33 CFR Part 331).
- B. ☐ There are Navigable Waters of the United States within the above described project area subject to the permit requirements of Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act. Unless there is a change in the law or our published regulations, this determination may be relied upon for a period not to exceed five years from the date of this notification.
- C. ☒ There are waters of the US and/or wetlands within the above described project area subject to the permit requirements of Section 404 of the Clean Water Act (CWA)(33 USC § 1344). Unless there is a change in the law or our published regulations, this determination may be relied upon for a period not to exceed five years from the date of this notification.
- D. ☐ The jurisdictional areas within the above described project area have been identified under a previous action. Please reference jurisdictional determination issued . Action ID: SAW- .

### **Basis For Determination: Site has tributary to the Dan River and Atlantic Ocean.**

This jurisdictional determination is only for the waters/wetlands proposed for impacts associated with this Nationwide Permit and does not include any other water/wetlands that may be located on the property.

### **Remarks:**

### **E. Attention USDA Program Participants**

This delineation/determination has been conducted to identify the limits of Corps' Clean Water Act jurisdiction for the particular site identified in this request. The delineation/determination may not be valid for the wetland conservation provisions of the Food Security Act of 1985. If you or your tenant are USDA Program participants, or anticipate participation in USDA programs, you should request a certified wetland determination from the local office of the Natural Resources Conservation Service, prior to starting work.

### **F. Appeals Information (This information applies only to approved jurisdictional determinations as indicated in B and C above).**

This correspondence constitutes an approved jurisdictional determination for the above described site. If you object to this determination, you may request an administrative appeal under Corps regulations at 33 CFR Part 331. Enclosed you will find a Notification of Appeal Process (NAP) fact sheet and request for appeal (RFA) form. If you request to appeal this determination you must submit a completed RFA form to the following address:

US Army Corps of Engineers  
South Atlantic Division  
Attn: Jason Steele, Review Officer  
60 Forsyth Street SW, Room 10M15  
Atlanta, Georgia 30303-8801  
Phone: (404) 562-5137

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 CFR part 331.5, and that it has been received by the Division Office within 60 days of the date of the NAP. Should you decide to submit an RFA form, it must be received at the above address by 5/9/2015.

**\*\*It is not necessary to submit an RFA form to the Division Office if you do not object to the determination in this correspondence.\*\***

Corps Regulatory Official: \_\_\_\_\_  
**John Thomas**

Date of JD: **03/09/2015**

Expiration Date of JD: **03/18/2017**

The Wilmington District is committed to providing the highest level of support to the public. To help us ensure we continue to do so, please complete our customer Satisfaction Survey online at <http://regulatory.usacesurvey.com/>.

Copy furnished:

Agent:

Address:

Telephone Number: